

Consent Policy Design Group

Overview of HHS Request for Information on: Modifying HIPAA Rules To Improve Coordinated Care	
What is it?	<p>On December 14, 2018, the Office of Civil Rights (OCR) within the Department of Health and Human Services (HHS) issued a 13-page request for information (RFI) to solicit public assistance in identifying provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security regulations that may impede the transformation to value-based health care or that limit or discourage coordinated care among individuals and covered entities (including hospitals, physicians, and other providers, payors, and insurers), without meaningfully contributing to the protection of the privacy or security of individuals' protected health information.</p> <p>RFIs are not rules and don't always result in new rules or regulations, but they often telegraph the perspectives of federal agencies on particular areas. HHS was particularly interested in looking for ways to make modernizing changes to HIPAA reflective of our data-driven healthcare world today to both make data flow more readily and reduce provider burden – all while maintaining protections for patient privacy. HHS received 1,337 comments in response to this RFI, many of them from individual citizens sharing privacy or coordinated care concerns. There have been no further actions to date.</p>
What are the highlights?	<p>HHS sought comments on modifying HIPAA rules to improve coordinated care. Specifically on:</p> <ul style="list-style-type: none"> • Promoting information sharing for treatment and care coordination and/or case management by amending the Privacy Rule to encourage, incentivize, or require covered entities to disclose PHI to other covered entities. • Encouraging covered entities, particularly providers, to share treatment information with parents, loved ones, and caregivers of adults facing health emergencies, with a particular focus on the opioid crisis. • Implementing the HITECH Act requirement to include, in an accounting of disclosures, disclosures for treatment, payment, and health care operations (TPO) from an electronic health record (EHR) in a manner that provides helpful information to individuals, while minimizing regulatory burdens and disincentives to the adoption and use of interoperable EHRs. • Eliminating or modifying the requirement for covered health care providers to make a good faith effort to obtain individuals' written acknowledgment of receipt of providers' Notice of Privacy Practices, to reduce burden and free up resources for covered entities to devote to coordinated care without compromising transparency or an individual's awareness of his or her rights. • OCR therefore requests input on whether it should modify or otherwise clarify provisions of the Privacy Rule to encourage covered entities to share PHI with non-covered entities when needed to coordinate care and provide related health care services and support for individuals in these situations. • Should health care clearinghouses be subject to the individual access requirements, thereby requiring health care clearinghouses to provide individuals with access to their PHI in a designated record set upon request?
Where can I read more?	<p>RFI docket on regulations.gov site: https://www.regulations.gov/document?D=HHS-OCR-2018-0028-0001</p>